IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.388 OF 2002

Yusuf Gaffur Pathan,
residing at Jamnadas
Prabhudas Chawl No.117/36,
Sewree, Zakeria Buder,
T.J. Road, Sewree,
Mumbai-15. .... Petitioner

- Versus -

1. M/s. Swan Mills Ltd.,
Process House, T.J. Road,
Sewree, Mumbai-400 015.

2. Industrial Court, Mumbai. .... Respondents

Ms Gayatri Singh for the Petitioner.

Shri V.P. Vaidya for the Respondent (No.1).

CORAM: R.M.S. KHANDEPARKAR, J.

DATED: SEPTEMBER 03, 2004

P.C:

1. The learned Advocate for the petitioner appeared before this Court along with the Advocate for the respondent at 11:30 a.m. and submitted that as she was held up in another Court, she could not appear before this Court when the matter was called out and dismissed for default and requested for restoration, which was not objected and hence the order passed earlier dismissing the matter for default is recalled and the petition is restored to the board and heard forthwith.

2. In view of what transpired in the course of the hearing, it is not necessary to deal with the rival contentions sought to be raised in the matter suffice to note that since the impugned orders merely deal with the issue of limitation, and as the same has already been settled by a catena of decisions of this Court, the same cannot be sustained and therefore by consent the same are hereby quashed and set aside and the matter is remanded to the Labour Court at Mumbai to decide the claim of the petitioner on merits, in accordance with the provisions of law. Needless to say that this Court has not expressed any opinion on any of the issues sought to be raised except in relation to the point of limitation. The Labour Court shall dispose of the proceedings as expeditiously as possible and in any case on or before 31-3-2005. The rule is made absolute in above terms with no order as to costs.